

Notice of Allowability

Application No.

10/091,444

Examiner

Julian W. Woo

Applicant(s)

PEYMAN, GHOLAM A.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 9/27/04.
2. ☒ The allowed claim(s) is/are 1,2,4-23,25-29,31-37 and 42-46.
3. ☒ The drawings filed on 07 March 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

In the specification, on page 1, paragraph [0001], after "March 21, 2000, ," insert --now U.S. Patent No. 6,436,082, ---. In paragraph [0002], after "March 2, 1999, ," insert --now U.S. Patent No. 6,063,073--. On page 2, paragraph [0002], after "March 2, 1999," insert --now U.S. Patent No. 6,280,470--.

Authorization for the following amendment was given in a telephone interview with Jeffrey J. Howell, Reg. No. 46, 402, on April 15, 2005.

In claim 42, line 3, delete "blank" and insert --first inlay--.

3. The following is an examiner's statement of reasons for allowance: None of the prior art of record, alone or in combination, discloses a method for correcting the refractive error in a cornea, where; inter alia, an inlay is positioned on the surface of cornea, ablated, and removed from the cornea, where the cornea is then separated into first and second corneal surfaces, and where the inlay is positioned adjacent at least

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one of the first and corneal surfaces. The prior art of record also does not disclose a method, where, inter alia, the cornea is separated into first and second corneal surfaces, where an inlay is positioned adjacent at least one of the first and second corneal surfaces, measuring the refractive error in the eye, altering the refractive properties of the inlay, and repositioning the inlay adjacent at least one of the first and second corneal surfaces. Also, the prior art of record does not disclose a method where, inter alia, the cornea is separated into first and second corneal surfaces to form a flap, where the flap is moved to position a first inlay adjacent at least one of the first and second corneal surfaces and to position a second inlay adjacent the first inlay. None of the prior art of record, alone or in combination, a method for modifying the curvature of a live cornea, where the method includes, inter alia, implanting a blank having a plurality of sections, where a first section of the blank has an opening for implanting a second section within the opening. The prior art of record also does not disclose a method where, inter alia, the cornea is separated into first and second corneal surfaces to form a flap, where the flap is moved to position and ablate an inlay located adjacent to at least one of the first and second corneal surfaces, where the inlay has a first surface and a convex, flat, toric, or concave second surface. The prior art of record does not disclose a method, where, inter alia, first and second inlays are implanted within a live cornea, where at least one of the inlays is ablated, and where the second inlay overlies a portion of the first inlay.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is 571-272-4707. The examiner can normally be reached on M-F, 6:30-4:00, Alt. Fri. OFF, 6:30-3:00 Fri. IN.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julian W. Woo
Primary Examiner
Art Unit 3731

April 13, 2005